

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IRENE VANEGAS,

Plaintiff,

v.

P & R ENTERPRISES, INC.,

Defendant.

Civil Action No.: 02-478 (RMU)

Document No.: 8

**MEMORANDUM OPINION**

**GRANTING THE DEFENDANT’S PARTIAL MOTION TO DISMISS**

**I. INTRODUCTION**

The plaintiff, Irene Vanegas, brings this three-count complaint under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (“Title VII”), the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.* (“ADEA”), and the District of Columbia Human Rights Act, D.C. Code § 1-2501 *et seq.* (“DCHRA”). Ms. Vanegas claims that her former employer, P & R Enterprises, discriminated against her on the basis of gender and age. This matter is currently before the court on the defendant’s partial motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons that follow, the court grants the defendant’s partial motion to dismiss.

**II. BACKGROUND**

The plaintiff, a 56-year old Hispanic female, worked as a cleaning person for the defendant from October 1978 until February 2000. Compl. at 3. In July 1982, the defendant promoted Ms. Vanegas to a supervisory position. *Id.* In February 2000, the defendant notified Ms. Vanegas of the loss of the cleaning contract with the building in which she worked. *Id.* In

response to the plaintiff's request for a reassignment, the defendant told her that no supervisory positions were available and terminated her employment. *Id.*

The plaintiff filed her complaint on March 15, 2002. Ms. Vanegas alleges sex discrimination pursuant to Title VII in count one, age discrimination pursuant to the ADEA in count two, and age and sex discrimination pursuant to the DCHRA in count three. The plaintiff seeks relief including: (1) a declaration that the defendant engaged in discriminatory conduct; (2) reinstatement as a supervisor, (3) back pay, front pay, and other compensation; (4) compensatory damages in the amount of one-million dollars; and (5) punitive damages in the amount of one-million dollars. Compl. at 4-8.

The defendant filed a partial motion to dismiss on April 29, 2002. The defendant argues that Ms. Venegas' DCHRA claims are time-barred; that the plaintiff cannot recover under Title VII because she failed to exhaust her administrative remedies; and that, because the ADEA does not provide for compensatory or punitive damages, the plaintiff cannot recover such damages. Def.'s Mot. to Dismiss at 2-4. The plaintiff concedes that the court should dismiss counts one and three — her Title VII and DCHRA claims. Pl.'s Opp'n at 1. She argues, however, that the court should not dismiss her ADEA claims for compensatory and punitive damages<sup>1</sup> because the ADEA permits recovery of such damages under certain circumstances. *Id.* at 1-2. The court now resolves this one remaining issue.

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<sup>1</sup> The plaintiff sets forth her claims for compensatory and punitive damages paragraphs E and F of count two. Count two alleges age discrimination pursuant to the ADEA and requests multiple types of relief, as discussed *supra*.

### **III. ANALYSIS**

#### **A. Legal Standard for a Motion to Dismiss**

For a complaint to survive a Rule 12(b)(6) motion to dismiss, it need only provide a short and plain statement of the claim and the grounds on which it rests. FED. R. CIV. P. 8(a)(2); *Conley v. Gibson*, 355 U.S. 41, 47 (1957). A motion to dismiss under Rule 12(b)(6) tests not whether the plaintiff will prevail on the merits, but instead whether the plaintiff has properly stated a claim. FED. R. CIV. P. 12(b)(6); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds by Harlow v. Fitzgerald*, 457 U.S. 800 (1982). The plaintiff need not plead the elements of a prima-facie case in the complaint. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506 (2002) (holding that a plaintiff in an employment-discrimination case need not establish her prima-facie case in the complaint); *Sparrow v. United Air Lines, Inc.*, 216 F.3d 1111, 1114 (D.C. Cir. 2000). Thus, the court may dismiss a complaint for failure to state a claim only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984); *Atchinson v. Dist. of Columbia*, 73 F.3d 418, 422 (D.C. Cir. 1996). In deciding such a motion, the court must accept all of the complaint's well-pled factual allegations as true and draw all reasonable inferences in the nonmovant's favor. *Scheuer*, 416 U.S. at 236.

#### **B. The ADEA Does Not Provide for Compensatory and Punitive Damages**

Section 626(b) of the ADEA articulates its enforcement provisions and specifies the remedies available to plaintiffs alleging ADEA violations:

Amounts owing to a person as a result of a violation of this chapter shall be deemed to be *unpaid minimum wages or unpaid overtime compensation* . . . Provided: That *liquidated damages* shall be payable only in cases of willful violations of this chapter . . . the court shall have jurisdiction to grant such legal or equitable relief . . . including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts

deemed to be unpaid minimum wages or unpaid overtime compensation under this section.

29 U.S.C. § 626(b). Thus, the text of the ADEA explicitly provides for back pay, unpaid overtime compensation, and liquidated damages but not compensatory and punitive damages. Furthermore, when Congress considered how to penalize willful violations of the ADEA, it decided to incorporate a “double damage liability,” or liquidated damages, provision. *Snapp v. Unlimited Concepts, Inc.*, 208 F.3d 928, 939 n.16 (11th Cir. 2000) (citing 113 Cong. Rec. 2199, 7076 (1967)). Defining the scope of liquidated damages, the Eleventh Circuit has specified that liquidated damages include *only* double the amount of back pay and lost fringe benefits. *Farley v. Nationwide Mut. Ins. Co.*, 197 F.3d 1322, 1340 (11th Cir. 1999). In sum, compensatory and punitive damages are not available under the ADEA. *Prouty v. Nat’l Passenger R.R. Corp.*, 572 F. Supp. 200, 208 (D.D.C. 1983).

The defendant argues that the ADEA makes no provision for the award of compensatory or punitive damages. Def.’s Mot. to Dismiss at 4 (citing, *e.g.*, *Prouty*, 572 F. Supp. at 208; *Trans World Airlines, Inc. v. Thurston*, 469 U.S. 111, 125 (1985)). In contrast, the plaintiff argues that *Thurston* provides for claims of compensatory and punitive damages under the ADEA. Pl.’s Opp’n at 2. The plaintiff correctly notes that *Thurston* interprets Section 626(b) as providing for liquidated damages, which are punitive *in nature*, when a plaintiff has proven “willful violations” of the ADEA. *Id.*; *Thurston*, 469 U.S. at 125 (noting that the legislative history of the ADEA “indicates that Congress intended for liquidated damages to be punitive in nature”). Yet, the plaintiff fails to recognize that this “punitive” measure is quite limited in that the ADEA only allows for a plaintiff to recover liquidated, or double, damages. *Farley*, 197 F.3d at 1340.

In stating that liquidated damages are punitive in nature, the Supreme Court did not create a new statutory provision in the ADEA for punitive damages, as the plaintiff would have

the court conclude. *Thurston*, 469 U.S. at 125; *see also C.I.R. v. Schleier*, 515 U.S. 323, 332 n.5 (1995). While liquidated damages are similar to punitive damages, the plaintiff offers no authority for the proposition that they are identical. Pl.'s Opp'n. The plaintiff also assumes, without providing any law to support this theory, that the ADEA's provision for back pay entitles the plaintiff to all forms of compensatory damages. *Id.* In contrast, this court has explicitly stated that punitive and compensatory damages are not recoverable pursuant to the ADEA. *Prouty*, 572 F. Supp. at 208.

The court has evaluated the defendant's argument that the ADEA does not provide for compensatory and punitive damages; the plaintiff's inability to provide legal authority to support her argument to the contrary; and the law discussed *supra*, holding that the ADEA does not provide for compensatory and punitive damages. Consequently, the court determines that the plaintiff's request that the court extend the liquidated damages and unpaid wages provisions of the ADEA to include all forms of compensatory and punitive damages is not based in law. *Hishon*, 467 U.S. at 73. Accordingly, the court grants the defendant's partial motion to dismiss, dismissing counts one, three, and part of count two. Because only paragraphs E and F of count two relate to compensatory and punitive damages, the other claims and requests for relief in count two remain.

#### **IV. CONCLUSION**

For the reasons stated above, the court grants the defendant's partial motion to dismiss the complaint. Consequently, the court dismisses counts one, three, and paragraphs E and F (requesting compensatory and punitive damages) in count two of the plaintiff's complaint. An Order directing the parties in a manner consistent with this Memorandum Opinion is separately

and contemporaneously issued this \_\_\_\_ day of October 2002.

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Ricardo M. Urbina  
United States District Judge

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**ORDER**

**GRANTING THE DEFENDANT'S PARTIAL MOTION TO DISMISS**

For the reasons stated in this court's Memorandum Opinion separately and contemporaneously issued this \_\_\_\_ day of October 2002, it is

**ORDERED** that the defendant's motion for partial dismissal is **GRANTED** and counts one, three, and paragraphs E and F (requesting compensatory and punitive damages) in count two of the complaint are **DISMISSED**.

**SO ORDERED.**

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Ricardo M. Urbina  
United States District Judge

**Service List in *Vanegas v. P & R Enterprises, Inc.***  
**Civil Action No. 02-478 (RMU)**

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